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MEMORANDUM

TO: The Board of Oil, Gas, and Mining

FROM: James W. Smith, Jr., Reclamation Soils Specialist

SUBJECT: Interstate Brick, Koosharem Clay Pit,
Piute County ACT/031/002

DATE: January 30, 1979

Mr. Don Fullmer met with Division personnel Cleon Feight, Ron Daniels, and Jim Smith on January 26, 1979 to discuss the matter of posting a reclamation bond for that portion of the Koosharem clay mining operation existing on state-owned land in Piute County, Section 2, Township 27 South, Range 2 West. Mr. Fullmer holds state mineral leases, ML-27110 and ML-27206, on this property and owns federal mining claims on adjoining Forest Service managed land in Section 11 of the same township and range. The operation, approximately 15 acres in size, involves both of these sections. The site is located approximately six miles northwest of Greenwich, Utah just above Lower Box Creek Reservoir.

Interstate Brick Corporation of West Jordan, Utah was the operator for this mining activity under a sublease agreement from Mr. Fullmer. Interstate Brick filed a notice of intention and a mining and reclamation plan with the Division on January 28, 1977. However, since this operation was existing prior to enactment of the Utah Mined Land Reclamation Act, approval was delayed as provided under section 40-8-23 of the Act.

On August 31, 1978 Mr. Robert Steele, Representative for Interstate Brick, came into the office and informed the Division that Interstate Brick was terminating their operation at the Koosharem Mine and wished to begin reclamation in the fall. Mr. Steele stated that Mr. Fullmer had requested that limited reclamation be done in order to leave the pits open for future development. He also stated that this was acceptable to the U.S. Forest Service. Mr. Steele was informed that it would be acceptable to the Division also, as long as the proper safety precautions and stabilization measures were met and Mr. Fullmer was bonded for total reclamation of the pits if they were not developed further.

Division personnel, Mike Minder and Jim Smith performed a field inspection two weeks later on September 14th and found that Interstate Brick had just finished the reclamation on that very day. An Interstate Brick employee responsible for performing the reclamation work, Mr. Jim McWilliams, was on-site and stated that a representative of the U.S. Forest Service, Mr. Darrel Hintze, had released Interstate Brick from any further obligations. Mr. McWilliams was informed that the U.S. Forest Service did not have jurisdiction on State land so could not release Interstate Brick from their obligations under State law. However, the temporary reclamation work which had been done appeared to be satisfactory as long as it was only considered temporary reclamation. The reclamation consisted of rounding most pit edges to reduce the slope, grading the pit areas smooth, scarifying, seeding, and dragging the area. Highwalls were not reduced in one pit area on federal land and several thousand tons of stockpiled clay had yet to be removed.

Mr. Steele came into the Division office on September 25, 1978 and was informed of the problems concerning this operation as a result of misunderstandings and lack of communications. He was also advised to supply the Division with written statements explaining the situation, including a statement of clearance from the Forest Service and a statement from Mr. Fullmer accepting future responsibility and bonding.

On October 19, 1978 Mr. Steele supplied the Division with a statement written by him, that reclamation had been completed to the satisfaction of Mr. Fullmer and the Forest Service. He also included a copy of a reclamation agreement signed by Mr. Fullmer and Mr. Cahoon of Interstate Brick, a letter to the Forest Service amending their reclamation plan, a letter advising the Forest Service that reclamation would begin on September 11, 1978, and a bill of sale for seed.

The Division received a letter from the Forest Service on October 23, 1978 that they were closing their files on the Koosharem Clay Pit. On December 4, 1978 the Division received a copy of a letter from the Forest Service notifying the bonding company to release the \$10,000 bond posted by Interstate Brick.

On December 26, 1978 the Division estimated a reclamation surety in the amount of \$4,548 for complete reclamation of approximately seven (7) acres of the Koosharem Clay Pit operation located on State land. A letter explaining the situation and requesting that the bond be posted with the Division of State Lands was sent to Mr. Fullmer on December 27, 1978. A similar letter was sent to Mr. Steele of Interstate Brick at the same time. Also, a letter was sent to Mr. Hintze of the Forest Service explaining the situation and requesting that the Division be involved in all future mining and reclamation activities.

The Division received a letter from Interstate Brick on January 22, 1979 stating that they were willing to completely reclaim the area as set forth by the regulations, but limited the reclamation at Mr. Fullmer's request. Therefore, they feel that Mr. Fullmer is now responsible for the area as the claim and lease owner and they would be unjustly penalized if forced to come back and reclaim the area or post a surety for Mr. Fullmer's benefit. The Division also has a copy of a similar letter from Interstate Brick to Mr. Fullmer.

Mr. John Blake, with the Division of State Lands, sent Mr. Fullmer a letter on January 23, 1979 requesting that he post the bond or face possible cancellation of his state leases. This letter spurred the Division visit by Mr. Fullmer.

Mr. Fullmer does not agree with the amount of the bond or the fact that a bond is even necessary. He feels that the reclamation performed by Interstate Brick, and accepted by the U.S. Forest Service should be all that is needed. He requested that the Division of Oil, Gas, and Mining ask the Division of State Lands to postpone any action concerning his state leases until such time as we can perform another field inspection in the spring to reevaluate the situation. If we find that a bond is still required, then it is Mr. Fullmer's contention that Interstate Brick should be responsible for posting a reclamation surety. A letter was sent to Mr. Blake requesting a postponement of action. When asked about the possibility of locating another operator for the mine, Mr. Fullmer responded that he was doubtful.

This memorandum is to appraise the Board of the situation and seek an opinion from the Board as to which party, Mr. Fullmer or Interstate Brick, should be held responsible for posting the required bond. There is some disagreement among the Division staff. The staff would also solicit the Board's opinion on the amount of surety, a copy of which is attached.